

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

QUATRAIL SMITH,

Plaintiff,

v.

Case No. 23-11490

District Judge Matthew F. Leitman

Magistrate Judge Anthony P. Patti

DEPUTY VOURHEES, et al.,

Defendants.

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**ORDER GRANTING DEFENDANT’S MOTION TO COMPEL AS  
UNOPPOSED (ECF No. 35)**

Defendant Isiah Vorhies<sup>1</sup> has filed a motion to compel responses to his requests for production, which were served upon Plaintiff Quatrail Smith on January 15, 2024. (ECF No. 35, PageID.207.) The requests sought production of a fully executed medical release and copies of documents which Plaintiff intends to use at trial. (*Id.*) Plaintiff did not respond in anyway: he did not object, nor did he produce the requested documents. (*Id.*) *See* Fed. R. Civ. P. 34(b)(2)(A) (party to whom request for production is made must respond in writing within 30 days of service of the request).

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<sup>1</sup> The docket lists Defendant’s last name spelling as “Vourhees” but his attorney has brought a motion on behalf of “Vorhies.”

On June 24, 2024, Defendant filed the instant motion to compel. The local rules of the Eastern District of Michigan required Plaintiff to file responses if he wished to oppose Defendant's discovery motion. *See* E.D. Mich. LR 7.1(c)(1) ("A respondent opposing a motion must file a response, including a brief and supporting documents then available.") (emphasis added). A response to a discovery motion must be filed within 14 days after service of the motion. E.D. Mich. LR 7.1(e)(2)(B). Thus, in the absence of a scheduling order stating otherwise, Plaintiff's responses to Defendant's motion would have been due on or about July 9, 2024.<sup>2</sup> *See* Fed. R. Civ. P. 6(a), (d). To date, Plaintiff has not responded to Defendant's motion.

Opposition to a motion is deemed waived if the responding party fails to respond or otherwise oppose the motion. *See Humphrey v. United States Attorney General's Office*, 279 F. App'x 328, 331 (6<sup>th</sup> Cir. 2008). Because Plaintiff has not responded to Defendant's discovery motion, Defendant's motion can and will be construed as unopposed.

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<sup>2</sup> Given Plaintiff's incarcerated status, the Court waited an extra ten days before issuing this order, to account for delays in the prison mailing system.

Accordingly, the Defendant's motion to compel is (ECF No. 35) is **GRANTED as unopposed**. All objections to the pending discovery request are deemed waived. Plaintiff must provide all requested documents, including a signed and fully executed medical release, **by August 5, 2024**. Plaintiff is hereby warned that failure to comply with this order may result in sanctions under Fed. R. Civ. P. 37, up to and including having the Court render default judgment against him. *Lairy v. Detroit Med. Ctr.*, No. 12-11668, 2012 U.S. Dist. LEXIS 152972, 2012 WL 5268706, at \*1 (E.D. Mich. Oct. 23, 2012) ("As a general rule, failure to respond to discovery requests within the thirty days provided by Rules 33 and 34 constitutes a waiver of any objection.") (quoting *Carfagno v. Jackson Nat'l Life Ins.*, No. 99-118, 2001 U.S. Dist. LEXIS 1768, 2001 WL 34059032, at \*1 (W.D. Mich. Feb. 13, 2001)).

It is **SO ORDERED**.

July 19, 2024.

Anthony P. Patti  
United States Magistrate Judge